

1
2
3
4
5
6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE WESTERN DISTRICT OF WASHINGTON

9 UNITED STATES OF AMERICA,) Case No. 2:18-cv-00045-RSM
10 Plaintiff,)
11 v.) ORDER GRANTING UNITED
12 ESTATE OF DENNIS J. JOHNSON; and) STATES' MOTION FOR PARTIAL
13 JODY ANN FITTS, as Personal) SUMMARY JUDGMENT TO REDUCE
14 Representative of the Estate of) FEDERAL TAX PENALTY
15 Dennis J. Johnson,) ASSESSMENTS TO JUDGMENT
16 Defendant.)
17 _____)

16 This matter came before the Court on the United States' Motion for Partial Summary
17 Judgment to Reduce Federal Tax Penalty Assessments to Judgment. Based on the evidence
18 offered in support of the motion (the Declaration of IRS Revenue Agent Sean P. Flannery and
19 the Declaration of IRS Revenue Officer David J. James), the Court finds and concludes that the
20 penalty assessments at issue—primarily return preparer penalties under Internal Revenue Code
21 Sections 6694(b) and 6695(g), plus delinquency penalties under Section 6651—are
22 presumptively correct and that the total amount due as of July 31, 2018, including all statutory
23 interest accrued through that date, was \$84,675.80, and that the defendants have not come
24

1 forward with evidence to overcome the government's prima facie case. There are no genuine
2 issues of material fact, and the United States is entitled to judgment as a matter of law.

3 Further, the Court finds and concludes that a final partial judgment should be entered
4 under Rule 54(b) because there is no just reason for delaying until after such time as the other
5 claims in the complaint—for certain deficiencies in income tax—are determined by the United
6 States Tax Court in four pending cases styled as *Dennis J. Johnson v. Commissioner*, Docket
7 Nos. 29878-14, 29882-14, 16201-15, and 16238-15. In that connection, the Court finds, pursuant
8 to *Curtiss-Wright Corp. v. Gen. Elec. Co.*, 446 U.S. 1, 5-6 (1980), that

- 9 1. Certification under Rule 54(b) will “not result in unnecessary appellate review”;
- 10 2. The “claims finally adjudicated [are] separate, distinct, and independent of any of the
11 other claims or counterclaims involved”;
- 12 3. The “review of these adjudicated claims [will] not be mooted by any future developments
13 in the case”; and
- 14 4. “the nature of the claims [is] such that no appellate court would have to decide the same
15 issues more than once even if there [are] subsequent appeals.”

16 Accordingly, the motion is HEREBY GRANTED, and it is HEREBY ORDERED that a
17 final, partial judgment be entered under Fed. R. Civ. P. 54(b) in favor of the United States on its
18 claim against Jody Ann Fitts as personal representative of the estate of Dennis J. Johnson in the
19 amount of \$84,675.80 as of July 31, 018, plus statutory interest accruing thereafter until the full
20 amount is paid.

21 DATED this 22 day of August 2018.

22 

23 RICARDO S. MARTINEZ
24 CHIEF UNITED STATES DISTRICT JUDGE